

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-300
Administrative Law Judge Division
June 12, 2014

RESOLUTION

RESOLUTION ALJ-300 in the Matter of the Appeal of Citation FC-615 by Naghi Amir Eslami, dba Del Mar Shuttle, Dismissing the Appeal for Nonappearance and Affirming the Citation pursuant to Resolution ALJ-187.

SUMMARY

The appeal of Citation FC-615 by Naghi Amir Eslami, dba Del Mar Shuttle (Appellant), is dismissed with prejudice and Citation FC-615 is affirmed. The Appellant failed to appear at the evidentiary hearing to consider his appeal, and no good cause was shown for his failure to appear.

BACKGROUND

On November 14, 2013, the Commission's Safety and Enforcement Division (SED) issued Citation FC-615 to Naghi Amir Eslami, dba Del Mar Shuttle (Eslami or Appellant), for one count under Pub. Util. Code §§ 5389 and 5413,¹ and General Order (GO) 157-D, Part 6.02, and assessed a fine of \$1,000 for his alleged failure to make business records available following the issuance of records review letters by SED on August 19, 2013 and October 4, 2013.

On December 4, 2013, the Commission received a Notice of Appeal from Eslami. The assigned Administrative Law Judge (ALJ), Dan H. Burcham, sent an e-mail to all parties regarding their availability on possible dates for the appeal hearing. On March 22, 2014, the ALJ received an e-mail from the Appellant indicating he has a medical condition, is unable to attend any hearing, and would submit documentation regarding his medical condition the following Monday. The ALJ considered this as a possible motion for postponement or change of venue, and would have considered any

¹ All statutory references are to the Public Utilities Code unless otherwise indicated.

information provided. No documentation of any kind was received, and the ALJ received no other communication from the Appellant after the March 22, 2014 e-mail.

A hearing was scheduled for April 22, 2014, at 1:00 p.m. in the Commission's San Francisco Courtroom, pursuant to Resolution ALJ-187. Notice of the hearing was sent to the service list by postal mail and electronic service in compliance with Section 1702.5(b) and Rule 13.1(a).² The Appellant's physical notice was mailed to his address of record and it was not returned as refused or undeliverable. The e-mail notice of availability, which was sent to the e-mail address from which the Appellant communicated with the ALJ, was not rejected as sent to an invalid e-mail address.

At the date and time set for the hearing, counsel for SED and two witnesses were present and ready to proceed. The Appellant was not present. A brief recess was taken, during which the ALJ checked for any mail, e-mail, or voicemail communication from the Appellant which might have indicated his intention to appear and any reason for his delay. There was none.

DISCUSSION

When the Commission's Rules do not specifically address an issue, the ALJ may look to other statutes or administrative rules for guidance as necessary and appropriate for the efficient administration of justice.

Section 116.795 of the California Code of Civil Procedure provides in relevant part "The superior court may dismiss the appeal if the appealing party does not appear at the hearing" As the Appellant failed to appear at the hearing and no good cause was shown for his failure to appear, the appeal should be dismissed with prejudice.

COMMENTS

A draft of this Resolution was issued to the service list in this proceeding in accordance with § 311 of the Pub. Util. Code. Comments were allowed under Rule 14.5 of the Commission's Rules of Practice and Procedure. No comments were received.

FINDINGS

1. The Commission's SED issued Citation FC-615 to Appellant on November 14, 2013.
2. The Appellant filed an appeal to Citation FC-615 on December 4, 2013.

² The Commission's Rules of Practice and Procedure.

3. A hearing was scheduled for April 22, 2014 to consider the appeal, and the Appellant received notice of the hearing.
4. The Appellant failed to appear at the evidentiary hearing, and no good cause was shown for his failure to appear.
5. The Resolution was submitted for public comment. No comments were received.

THEREFORE, IT IS ORDERED that:

1. The appeal by Eslami Naghi Amir, doing business as Del Mar Shuttle of Citation FC-615 is dismissed with prejudice.
2. Citation FC-615 remains in effect and subject to enforcement.
3. Case PSG-3657 is closed.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

SERVICE LIST

CITATION APPEAL (SED) NUMBER FC-615

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CITATION APPEAL (SED) NUMBER FC-615

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